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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,265	07/22/1999	JAY S. WALKER	WD2-99-055	2597
22927	7590	01/27/2005	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			RIMELL, SAMUEL G	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/359,265

Applicant(s)

WALKER ET AL.

Examiner

Sam Rimell

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,56-69,72-86,89,95 and 96 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 95 and 96 is/are allowed.
- 6) ☒ Claim(s) 3,4,56-69,72-86 and 89 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Preliminary Notes: In light of the publication of U.S. Patent 6,839,679 that is considered to be relevant prior art to the claims of the present application, the following is a new grounds of rejection and is made non-final. Examiner regrets the inconvenience caused by the submission of a new grounds of rejection after the submission of an appeal brief. However, U.S. Patent 6,839,679 was only published in the past three weeks and contains a priority claim and subject matter that renders it as highly relevant prior art. This action is non-final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 4, 56-68; 72-85 and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Lynch et al. (U.S. Patent 6,839,679, published January 4, 2005, priority claim to March 18, 1996).

Claim 3: Col. 4, lines 14-33 and col. 4, lines 55-60 describe the specification of a first flexibility range from a customer. The flexibility range includes both a business entity profile associated with the customer (col. 4, lines 14-33) as well as the travel parameters specified by the customer (col. 4, lines 55-60). An analogous flexibility range can be established for a second customer, such as another employee of the company having the same business profile (col. 4, lines 31-33).

After the travel parameters and business profiles are submitted, a travel product (a travel arrangement—col. 8, line 15) is established that meets the first flexibility range (col. 7, line 66

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through col. 8, line 15). The same travel arrangement can also meet the flexibility ranges of second customers, such as if it involves the same flight, same hotel or same destination for the second customer.

Prices for sale of the travel arrangement are established based on the information in the specified flexibility range. A specialized code in the business entity profile (col. 8, line 8) constitutes a score and is used to determine a business entity discount off an established price.

Claim 4: See remarks for claim 3.

Claims 56: The flexibility range includes both the business entity profile (col. 4, lines 14-33) and the travel request information (col. 4, lines 55-60). Both specify a preferred travel product, such as the business profile defining a preferred airline (col. 7, lines 24-35) or the customer defining a specific airline (col. 4, line 59).

Claim 57: Having a flexibility range that includes the specification of an airline is considered to be the specification for a tolerance.

Claim 58: Col. 4, line 23 calls for the specification of a fare class restriction in the flexibility range. A fare class restriction is inherently a specification of minimum and maximum values, namely, the minimum and maximum values for price in that limited fare class.

Claim 59: The flexibility range includes a specification of time (col. 4, line 58).

Claim 60: The flexibility range includes a specification of date (col. 4, line 60).

Claim 61: The flexibility range can specify a desired level of service (fare class restriction, col. 4, line 23).

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Claim 62: The flexibility range can specify a location assignment (destination city—col. 6, line 56) or fare class restriction (col. 4, line 23) restricting the passenger, for example, to the coach section in an aircraft.

Claim 63: The specification of a fare class restriction (col. 4, line 23) inherently defines a maximum price for a travel accommodation, such as an airline ticket. The price would be limited to the maximum price in that fare class. The invention of Lynch et al. seeks to the lowest price possible within the flexibility range, which would be a price at or below the maximum value in the fare class.

Claim 64: As described at col. 7, lines 6-12, the system initially identifies all the travel accommodations that conform to only the travel itinerary. These will include accommodations that are not preferred according to the business profile. Col. 7, lines 20-33 specifies that this information is then further filtered using the business profile to produce the preferred travel products.

Claim 65: Col. 7, lines 37-48 call for the generation of a listing of travel accommodations. The display of the listing is not described as having a specific order, and thus would be random.

Claim 66: The travel arrangements are selected from databases of travel products (col. 4, lines 45-54). Any of the information in such databases, such as ticket prices or fare classes are considered to be revenue management information.

Claim 67: Col. 4, line 29 refers to provision of a free ticket for travel. A free ticket is considered a voucher for travel.

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Claim 68: Information about a free ticket constitutes a voucher. The information about such voucher is stored in the business entity profile (col. 4, lines 25-30).

Claim 72: See remarks for claim 3.

Claim 73: See remarks for claim 56.

Claim 74: See remarks for claim 57.

Claim 75: See remarks for claim 58.

Claim 76: See remarks for claim 59.

Claim 77: See remarks fro claim 60.

Claim 78: See remarks for claim 61.

Claim 79: See remarks for claim 62.

Claim 80: See remarks for claim 63.

Claim 81: See remarks for claim 64.

Claim 82: See remarks for claim 65.

Claim 83: See remarks for claim 66.

Claim 84: See remarks for claim 67.

Claim 85: See remarks for claim 68.

Claim 89: See remarks for claim 3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 69 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch et al. (U.S. Patent 6,839,679) in view of Walker et al. (U.S. Patent 6,134,534, already cited of record).

Claims 69 and 86: Lynch et al. differs in that it does not specify penalties for failure to purchase tickets. However, Walker et al. col. 7, lines 18-22 teaches the principle of applying such penalties. It would have been obvious to one of ordinary skill in the art to modify Lynch et al. to include the imposition of penalties for failure to purchase requested tickets in order to prevent "price pinging" (col. 7, lines 7-17) by the customer to test vendor's price flexibility as taught by Walker et al.

Claims 95-96 are allowed.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
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